

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Joshua Collins,	:	Case No. 1:17-cv-48
	:	
Petitioner,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	
Warden, Richland Correctional Institute,	:	Order Adopting Report and
	:	Recommendation
Respondent.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation dated February 5, 2025. (Doc. 42.) The Magistrate Judge recommends that Petitioner Joshua Collins' Motion to Reinstate (Doc. 37) his habeas corpus action be denied without prejudice and that the action remain stayed and terminated on the Court's active docket pending petitioner's compliance with the conditions of the March 12, 2018 stay order. Collins did not object to the Report and Recommendation.

Title 28 U.S.C § 636(b)(1)(B) & (C) and Federal Rule of Civil Procedure Rule 72(b)(1) authorize magistrate judges to make recommendations concerning dispositive motions and prisoner petitions challenging conditions of confinement. Parties then have fourteen days to make file and serve specific written objections to the report and recommendation. 28 U.S.C. 636(b)(1); Fed. R. Civ. P. 72(b)(2). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1) (substantially similar).

The Court agrees with the well-reasoned Report and Recommendation. As the Magistrate Judge set forth, this action was administratively stayed and terminated from the

Court's active docket on March 12, 2018 while Collins exhausted his state-court remedies. (*See* Docs. 14, 17, 18.) Collins filed a pro se motion requesting his case be reopened on July 17, 2024. (Doc. 37.) The Magistrate Judge thoroughly reviewed the docket of this case and found that petitioner still appears to have an available avenue of relief in the form of a delayed direct appeal to the Supreme Court of Ohio from the Ohio Court of Appeals' November 12, 2019 decision dismissing his appeal. *See* S. Ct. Prac. R. 7.01(A)(4). The Magistrate Judge, therefore, recommended denying Collins' Motion to Reinstate his habeas case on this basis and without prejudice to refile upon his compliance with the conditions of the March 12, 2018 stay order. The Court agrees with the Magistrate Judge's analysis.

The Magistrate Judge's Report and Recommendation (Doc. 42) is **ADOPTED**. Petitioner's motion to reinstate this habeas corpus action (Doc. 37) is **DENIED without prejudice**, and this action will remain stayed and terminated on the Court's active docket pending petitioner's compliance with the conditions of the March 12, 2018 stay order.

A certificate of appealability will not issue with respect to petitioner's motion to reinstate this habeas corpus action (Doc. 37) because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000), “jurists of reason” would not find it debatable whether this Court is correct in its procedural ruling.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the request is **DENIED**. Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal of this Order would not be taken in “good faith.” *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117

F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

BY THE COURT:

S/Susan J. Dlott

Susan J. Dlott

United States District Judge